IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.377 OF 2007
IN
SUIT NO.1022 OF 2006

Trade Wings Hotels Limited & Ors. ...Plaintiff

V/s.

Satyanarayan Nangalia & Anr. ...Defendants

And

Abhishekh Nangalia & Anr. ...Respondents

.....

Mr.Ajay Panicker for Applicant/Plaintiff.

Mr.M.U.Pandey for Defendants 1 & 2.

Mr.Induprakash i/b L.K.Tripathi for Respondents 1 & 2.

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CORAM: A.M.KHANWILKAR, J.

AUGUST 1, 2007.

P.C.

1. Heard Counsel for the parties.

2. In my opinion, the prayer for impleadment of Respondents 1 and 2 as party Defendant Nos.3 and 4 in the pending Suit, to say the least, is

ill-advised. This is so because the Suit pertains to specific property and the relief of specific performance claimed in the Suit is in relation to that property. The fact that the property which the Plaintiff proposes to attach before Judgment, is owned by Respondent Nos.1 and 2 or the Defendant No.1, cannot be gone into on merits in the pending Suit.

3. Counsel for the Plaintiff, however, submits that the issue as to whether Respondents 1 and 2 are the real owners or the Defendant No.1 is the real owner, will have to addressed before order of attachment prior to Judgment is passed. Those aspects, in my view, will have to be considered in the derivative proceedings proposed to be taken out by the Plaintiff for attachment before Judgment for some other property.

4. I am not expressing any opinion with regard to the correctness of the stand of any of the parties in that behalf. All questions in that behalf are left open.

5. Suffice it to observe that Respondent Nos.1 and 2 can neither be said to be necessary nor proper party in the present Suit. In this Suit which is in relation to specific property and for relief of specific purpose of suit agreement pertaining to that property, the declaration that some other property is owned and possessed by Defendant No.1 and not by Respondents 1 and 2 who incidentally happen to be his children, cannot be the subject matter of this Suit.

6. Hence, this Chamber Summons is dismissed leaving all contentions in the proposed application for attachment before Judgment, to be considered on its own merits therein.

A.M.KHANWILKAR, J.